

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC,

Debtor.

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

**EX PARTE APPLICATION FOR ORDER APPROVING
TRUSTEE'S EMPLOYMENT OF AUCTIONEER**

Jurisdiction

1. Exigent Landscaping, LLC ("Debtor") filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code on August 7, 2023 and converted to Chapter 7 on February 12, 2024.
2. Mark H. Shapiro ("Trustee") is the Chapter 7 Trustee of the Debtor's bankruptcy estate.
3. The Trustee files this application under 11 U.S.C. §§ 327 and 328, Fed. R. Bank. P. 2014, and L.B.R. 2014-1 (E.D.M.).
4. This is a core proceeding over which this Court has jurisdiction. *See* 28 U.S.C. §§ 157(b)(2)(A) and 1334.

Background

5. The Debtor owns landscaping equipment and machinery, office equipment, vehicles, and other personal property ("Assets").

6. Except for a GMC 4500 Truck, the Assets are subject to perfected security interests.

7. All but one secured creditor—the Small Business Administration (“SBA”)—have opted to repossess their equipment.

8. One piece of equipment, described as a Caterpillar 308e2 Excavator, SN FJX01882 (“Excavator”) is subject to a security interest in favor of Caterpillar Financial Services Corp. (“CAT Financial”). The Trustee is informed that there is equity in the Excavator beyond the balance owed to CAT Financial on the Excavator. Accordingly, the Excavator will be included in the sale and sold only if the price exceeds the balance owed to CAT Financial on the Excavator. Any excess proceeds will be subject to the security interest of the SBA.

9. The SBA has agreed to permit the Trustee to sell its collateral subject to a 33% surcharge.

Employment of Auctioneer

10. Miedema Auctioneering, Inc. d/b/a Repocast (“Repocast”) has viewed the Assets and has consulted with the Trustee on the best avenue for selling the assets that will not be repossessed.

11. The Trustee believes that it is in the best interest of the estate to sell the GMC 4500, the Excavator, and the other SBA collateral by public auction.

12. The Trustee desires to employ Repocast as auctioneer.

13. Repocast has experience conducting auctions in bankruptcy matters and holds a surety/blanket bond of at least \$100,000 in the name of the United States of America (Eastern Division of Michigan).

14. Repocast will charge a commission of 8% of the gross proceeds received for items selling over \$5,000 and 10% of the gross proceeds of items selling for \$5,000 or less. In addition, Repocast requires reimbursement of expenses, estimated at \$10,000¹ for transporting, cleaning, advertising, setting up, and releasing the sale items. Repocast will also charge a 13% buyer's premium. However, if the buyer pays their invoice in full, with cash, cashier's check, or wire transfer, the buyer's premium will be reduced to 10% for that invoice.

15. The gross proceeds, less any Court approved fees and expenses of Repocast, will be turned over to the Trustee along with a sale reconciliation statement within 15 days of conclusion of the auction.

16. A proposed Order Approving the Trustee's Employment of Auctioneer is attached as Exhibit A.

¹ The Trustee has opted to move the items because the auction can be held almost a month sooner if the items are transported, and the estate will avoid the additional administrative costs relative to the lease of the premises where the Assets are currently located. Due to the high costs of transportation, Repocast agreed to reduce its standard 15% commission to 10%.

17. A Declaration of Disinterestedness is attached as Exhibit B in accordance with L.B.R. 2014-1 (E.D.M.).

Request for Order

The Trustee respectfully requests that this Court enter an order approving his employment of Repocast as auctioneer.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)
Attorney for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
clark@steinbergshapiro.com

Date: March 6, 2024

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EXHIBIT LIST

Exhibit	Description
A	Proposed Order
B	Declaration of Disinterestedness

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**EX PARTE ORDER APPROVING
TRUSTEE’S EMPLOYMENT OF AUCTIONEER**

This matter has come before the Court on the Trustee’s ex parte application to employ Miedema Auctioneering, Inc. d/b/a Repocast (“Repocast”) as auctioneer (the “Application”; Docket #____). The Court has reviewed the Application and is satisfied that the same is in good order. The Court is otherwise fully advised in the premises.

IT IS ORDERED as follows:

- A. The Trustee’s employment of Repocast as auctioneer on the terms stated in the Application is approved; and
- B. All fees and expenses sought by Repocast are conditioned upon court approval.

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DECLARATION OF DISINTERESTEDNESS

Jared Hekstra states as follows:

1. I am an officer of Miedema Auctioneering, Inc. d/b/a Repocast (“Repocast”) with authority to make this Declaration.
2. Repocast is willing to accept employment on the basis set forth in the Ex-Parte Application for Order Approving Trustee’s Employment of Auctioneer.
3. Repocast holds a surety/blanket bond of at least \$100,000 in the name of the United States of America (Eastern Division of Michigan).
4. I have reviewed section 101(14) of the Bankruptcy Code and Bankruptcy Rule 2014; a list of the Debtor’s creditors; and the Staff Directory for the Detroit, Michigan office of the U.S. Trustee, and find that no connections presently exist or recently existed between Repocast and interested parties (including the Debtor, creditors, the office of the U.S. Trustee, or the employees of the office of the U.S. Trustee). Nor do any past connections exist (personal or

business) between Repocast and interested parties that are either related to the bankruptcy case or could reasonably affect the decisions or judgment of Repocast.

5. Repocast does not hold any interest adverse to the above Chapter 7 estate and is a disinterested entity as defined in 11 U.S.C. § 101(14).

6. Repocast wishes to disclose the following connections:

- a. Prior representation of any creditor/interested party: None
- b. Ownership/stock interest in any creditor/interested party: None
- c. Other: None

7. Repocast understands that all compensation and reimbursement of expenses are subject to court approval.

8. Repocast understands that assets of this estate may not be sold to the Trustee of this case, any panel trustee, any professional regularly employed by the Trustee, any family members of the Trustee or professional, or any employee of the Trustee or professional.

I declare under penalty of perjury that the preceding statements are true and correct to the best of my knowledge, information, and belief.

Repocast

/s/ Jared Hekstra

V.P. Sales

601 Gordon Industrial Ct. SW

Byron Center, MI 49315

(866) 550-REPO

jared@1800lastbid.com

Date: March 6, 2024